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1                               A bill to be entitled

2       An act relating to clandestine laboratory contamination;  
3       amending s. 893.02, F.S.; providing definitions; creating  
4       s. 893.121, F.S.; providing for quarantine of any  
5       residential property where illegal clandestine laboratory  
6       activities occurred; providing for establishment of a  
7       uniform notice and a uniform letter; providing for posting  
8       of specified notice at the site of a quarantine; requiring  
9       the sending of a specified letter to a residential  
10      property owner or property manager; providing for  
11      petitions by certain persons in circuit court to lift such  
12      quarantines under certain conditions; prohibiting  
13      specified violations relating to such quarantines;  
14      creating s. 893.122, F.S.; permitting demolition of  
15      quarantined residential property under certain conditions;  
16      providing immunity from health-based civil actions for  
17      residential property owners who have met specified  
18      clandestine laboratory decontamination standards as  
19      evidenced by specified documentation; providing an  
20      exception to such immunity for persons convicted of  
21      manufacturing controlled substances at the site; creating  
22      s. 893.123, F.S.; providing clandestine laboratory  
23      decontamination standards; providing for certificates of  
24      fitness to indicate that decontamination has been  
25      completed; providing for rulemaking; creating s. 893.124,  
26      F.S.; requiring the Department of Health to compile and  
27      maintain lists of decontamination specialists and persons  
28      authorized to perform clandestine laboratory cleanup;  
29      providing for establishment of requirements for persons

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30 authorized to perform clandestine laboratory cleanup;  
31 permitting decontamination specialists to request  
32 specified documents; providing for specified reports by  
33 decontamination specialists; providing for the placement  
34 of liens on contaminated residential property for certain  
35 costs and removal of such liens; requiring clandestine  
36 laboratory cleanup specialists to repair, replace, or  
37 remediate damaged materials on a residential property such  
38 that the residential property successfully tests less than  
39 or equal to specified values; providing for a form to  
40 indicate that appropriate cleanup of a clandestine  
41 laboratory has occurred; providing for issuance of a  
42 certificate of fitness; amending ss. 465.016, 465.023,  
43 856.015, 893.135, 944.47, 951.22, and 985.4046, F.S.;  
44 conforming cross-references; providing an effective date.

45  
46 WHEREAS, methamphetamine use and production is increasing  
47 throughout the state, and

48 WHEREAS, in places where methamphetamine production has  
49 occurred, significant levels of chemical contamination may be  
50 found, especially in residential properties when the  
51 contamination is not decontaminated, and

52 WHEREAS, children are susceptible to environmental toxicants  
53 via the skin, and the ingestion of residual methamphetamine is  
54 considered to be a result of hand-to-mouth activities, and

55 WHEREAS, studies on methamphetamine use during pregnancy  
56 showed an increased incidence of intrauterine growth retardation,  
57 prematurity, and perinatal complications, and

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58 WHEREAS, once clandestine laboratories have been seized, the  
59 public may continue to be harmed by the illegal dumping of  
60 chemical byproducts and the chemical residues that remain on the  
61 residential property, and

62 WHEREAS, there are no statewide standards for determining  
63 when a site of a seized clandestine laboratory has been  
64 successfully decontaminated, and

65 WHEREAS, the Legislature finds that this act is necessary  
66 for the immediate preservation of the public health, safety, and  
67 welfare and fulfills an important state interest, NOW, THEREFORE,

68  
69 Be It Enacted by the Legislature of the State of Florida:  
70

71 Section 1. Subsection (4), subsections (5)-(20), and  
72 subsection (21) of section 893.02, Florida Statutes, are  
73 renumbered as subsection (6), subsections (9)-(24), and  
74 subsection (26), respectively, and new subsections (4), (5), (7),  
75 (8), and (25) are added to that section, to read:

76 893.02 Definitions.--The following words and phrases as  
77 used in this chapter shall have the following meanings, unless  
78 the context otherwise requires:

79 (4) "Clandestine laboratory" means any location and  
80 proximate areas set aside or used that are likely to be  
81 contaminated as a result of manufacturing, processing, cooking,  
82 disposing, or storing, either temporarily or permanently, any  
83 substances in violation of this chapter, except as such  
84 activities are authorized in chapter 499.

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85        (5) "Contaminated" or "contamination" means containing  
86 levels of chemicals at or above the levels established under s.  
87 893.123(1) as a result of clandestine laboratory activity.

88        (7) "Decontamination" means the process of reducing the  
89 level of a known contaminant to an amount acceptable for human  
90 reoccupancy using currently available methods and processes.

91        (8) "Decontamination specialist" means a certified  
92 industrial hygienist, local health officer, environmental  
93 specialist, or other employee of the department or qualified  
94 contractor that the department deems qualified to determine if a  
95 clandestine laboratory is contaminated.

96        (25) "Residential property" means a dwelling unit used, or  
97 intended for use, by an individual or individuals as a permanent  
98 residence. The term includes improved real property of between  
99 one and four dwellings; a condominium unit, as defined in s.  
100 718.103(27); a cooperative unit, as defined in s. 719.103(24); or  
101 a mobile home or manufactured home, as defined in s. 320.01(2).  
102 The term does not include a hotel, motel, campground, marina, or  
103 timeshare unit.

104        Section 2. Section 893.121, Florida Statutes, is created to  
105 read:

106        893.121 Quarantine of residential property.--

107        (1) The purpose of the quarantine provided for in this  
108 section is to prevent exposure of any person to the hazards  
109 associated with clandestine laboratory activities and provide  
110 protection from unsafe conditions that pose a threat to the  
111 public health, safety, and welfare. The department has the  
112 authority to quarantine residential property under s. 381.0011.

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113        (2) Whenever a law enforcement agency secures evidence from  
114 any residential property where illegal clandestine laboratory  
115 activities occurred, the law enforcement agency securing evidence  
116 shall, as part of its duty to assist the department under s.  
117 381.0012(5), enforce a quarantine on the residential property  
118 until it is deemed decontaminated for human reoccupancy.  
119 Enforcement does not require the posting of 24-hour law  
120 enforcement personnel. The residential property shall remain  
121 quarantined until a decontamination specialist determines the  
122 residential property is not contaminated or the law enforcement  
123 agency receives documentation that the residential property may  
124 be reoccupied.

125        (3) The department shall adopt rules pursuant to ss.  
126 120.536(1) and 120.54 to establish a uniform notice to post at  
127 the site of a quarantined clandestine laboratory and a uniform  
128 letter that will be sent to the residential property owner or the  
129 manager of the residential property under quarantine by the law  
130 enforcement agency enforcing the quarantine. The material in the  
131 letter and notice shall include, but not be limited to:

132        (a) That the residential property has been quarantined and  
133 a clandestine laboratory was seized on or inside the residential  
134 property.

135        (b) The date of the seizure.

136        (c) The name and contact telephone number of the agency  
137 posting the quarantine.

138        (d) A statement specifying that hazardous substances, toxic  
139 chemicals, or other hazardous waste products may have been  
140 present and may remain on or inside the residential property and

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141 that exposure to the substances may be harmful and may pose a  
142 threat to public health and the environment.

143 (e) A statement that it is unlawful for an unauthorized  
144 person to enter the contaminated residential property and that  
145 the removal of any notice of the quarantine is a second degree  
146 misdemeanor under s. 381.0025(1).

147 (f) A statement explaining how to have the quarantine  
148 lifted.

149 (4) The law enforcement agency that quarantines the  
150 residential property shall be responsible for posting the uniform  
151 notice, as provided in subsection (3), and, to the extent  
152 possible, notify the residential property owner or the manager of  
153 the residential property with a uniform letter, as provided in  
154 subsection (3), within 5 working days from the date of  
155 quarantine.

156 (5) Upon quarantine, the law enforcement agency shall  
157 immediately notify the local health officer that a residential  
158 property in the officer's area was quarantined. Within 3 working  
159 days after receiving the notification, the health officer shall  
160 dispatch a decontamination specialist to determine whether the  
161 residential property is contaminated.

162 (6) Any person who has an interest in a residential  
163 property that is quarantined pursuant to this section may file a  
164 petition in the circuit court in which the residential property  
165 is located to request that the quarantine of the residential  
166 property be lifted for one of the following reasons:

167 (a) The residential property was wrongfully quarantined; or

168 (b) The residential property has been properly  
169 decontaminated as specified in s. 893.122(1) or s. 893.123 and

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170 may be reoccupied, but the law enforcement agency or the  
171 department that imposed the quarantine refuses or fails to lift  
172 the quarantine.

173 (7) No person shall inhabit the quarantined residential  
174 property, offer the residential property to the public for  
175 temporary or indefinite habitation, or remove any notice of the  
176 quarantine. Any person who willfully violates a provision of this  
177 subsection commits a second degree misdemeanor under s.  
178 381.0025(1).

179 Section 3. Section 893.122, Florida Statutes, is created to  
180 read:

181 893.122 Option of demolition; immunity from liability from  
182 health-based civil actions.--

183 (1) Upon notification from a law enforcement agency that  
184 clandestine laboratory activities have occurred on a residential  
185 property or when such activity is discovered and the residential  
186 property owner has received notice of a quarantine and  
187 documentation that the residential property is contaminated, the  
188 owner of such property shall meet the clandestine laboratory  
189 decontamination standards in compliance with s. 893.123 unless  
190 the residential property owner, at the owner's discretion, elects  
191 to demolish the contaminated residential property. The demolition  
192 and removal of materials must meet the requirements of the  
193 Occupational Safety and Health Administration; United States  
194 Environmental Protection Agency regulations pertaining to the  
195 generation, storage, transport, and disposal of hazardous wastes;  
196 and any state or local requirements.

197 (2) A residential property owner who has met the  
198 clandestine laboratory decontamination standards, as evidenced by

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199 documentation completed by persons authorized to perform cleanup  
200 of properties where clandestine laboratory activities have  
201 occurred and as evidenced by a copy of the results that were  
202 provided to the law enforcement agency and the department to  
203 remove the quarantine, or has demolished the residential property  
204 in compliance with subsection (1), shall have immunity from  
205 health-based civil actions brought by any future owner, renter,  
206 or other person who occupies such residential property, or a  
207 neighbor of such residential property, in which the alleged cause  
208 of the injury or loss is the existence of the clandestine  
209 laboratory. However, a person with a conviction, as defined in s.  
210 944.607, for the manufacture of any substance regulated under  
211 this chapter on the residential property where clandestine  
212 laboratory activities occurred shall not have the immunity  
213 provided in this subsection.

214 Section 4. Section 893.123, Florida Statutes, is created to  
215 read:

216 893.123 Clandestine laboratory decontamination standards.--

217 (1) The department shall adopt rules pursuant to ss.  
218 120.536(1) and 120.54 establishing standards for the cleanup and  
219 testing of clandestine laboratories. Residential property  
220 contaminated by clandestine laboratory activity may be reoccupied  
221 only if all of the following standards are met with regard to  
222 that property:

223 (a) The total level of lead is less than or equal to 20  
224 micrograms per cubic meter.

225 (b) The level of methamphetamine on any indoor surface is  
226 less than or equal to 0.1 micrograms per 100 square centimeters.



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227        (c) The level of mercury is less than or equal to 50  
228 nanograms per cubic meter for indoor air.

229        (d) The level of volatile organic compounds, as defined in  
230 40 C.F.R. s. 51.100, is less than or equal to 1 part per million  
231 for indoor air.

232        (2) The department shall adopt rules pursuant to ss.  
233 120.536(1) and 120.54 to establish a certificate of fitness that  
234 shall act as appropriate documentation to submit to the law  
235 enforcement agency that the residential property has been  
236 properly decontaminated. The certificate of fitness shall:

237        (a) Be issued by a decontamination specialist who  
238 determines the quarantined residential property may be reoccupied  
239 based on the standards specified in subsection (1); or

240        (b) Be issued to the residential property owner at the  
241 completion of decontamination by a person authorized to perform  
242 cleanup of clandestine laboratories that have been quarantined.

243        Section 5. Section 893.124, Florida Statutes, is created to  
244 read:

245        893.124 Decontamination and clandestine laboratory cleanup  
246 specialists.--

247        (1)(a) The department shall compile and maintain a list of  
248 decontamination specialists and a list of persons authorized to  
249 perform clandestine laboratory cleanup of properties where  
250 clandestine laboratory activities have occurred. These lists  
251 shall be posted on the department's Internet website.

252        (b) Persons authorized to perform clandestine laboratory  
253 cleanup of properties should have knowledge and skill in handling  
254 toxic substances, such as certified industrial hygienists. The  
255 department shall adopt rules pursuant to ss. 120.536(1) and

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256 120.54 specifying the requirements for persons authorized to  
257 perform clandestine laboratory cleanup. For purposes of this  
258 section, these persons shall be designated "clandestine  
259 laboratory cleanup specialists."

260 (2) In determining whether a clandestine laboratory is  
261 contaminated, the decontamination specialist may request copies  
262 of any law enforcement reports, forensic chemist reports, and any  
263 hazardous waste manifests to evaluate the following:

264 (a) The length of time the residential property was used as  
265 a clandestine laboratory.

266 (b) The extent to which the residential property was  
267 exposed to chemicals used in clandestine laboratory activities.

268 (c) The chemical process that was involved in the  
269 clandestine laboratory activities.

270 (d) The chemicals that were removed from the residential  
271 property.

272 (e) The location of the clandestine laboratory activities  
273 in relation to the habitable areas of the residential property.

274 (3) If the decontamination specialist determines that the  
275 residential property is not contaminated, the decontamination  
276 specialist shall send a copy of the documentation to the  
277 residential property owner and the local law enforcement agency,  
278 remove all quarantine notices posted pursuant to s. 893.121, and  
279 prepare a written document that includes the following:

280 (a) Findings and conclusions.

281 (b) The name of the residential property owner and mailing  
282 and street address of the residential property or the parcel  
283 identification of the residential property, if applicable.

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284        (4) If the decontamination specialist determines that the  
285 residential property is contaminated, the decontamination  
286 specialist shall:

287        (a) Prepare written document containing the findings,  
288 conclusions, and test results and a statement specifying that the  
289 residential property is contaminated and will remain quarantined  
290 until the residential property is decontaminated pursuant to s.  
291 893.122(1) or s. 893.123.

292        (b) Send a copy of the written document to the residential  
293 property owner within 3 working days along with a list of  
294 clandestine laboratory cleanup specialists who have been  
295 authorized to perform cleanup by the department and information  
296 on how to have the quarantine lifted.

297        (c) Send a copy of the written document to the law  
298 enforcement agency within 3 working days from the time of  
299 completion of the report.

300        (5)(a) The department shall file a lien with the clerk of  
301 the circuit court on the residential property that is deemed  
302 contaminated. The lien shall specify all of the following:

303            1. The name of the agency on whose behalf the lien is  
304 imposed.

305            2. The date on which the residential property was  
306 determined to be contaminated.

307            3. The legal description and the assessor's parcel number.

308            4. The record owner of the residential property.

309            5. The amount of the lien, which shall be the greater of  
310 \$200 or the costs incurred by the department to determine if the  
311 residential property is contaminated, including, but not limited

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312 to, the cost of inspection by the decontamination specialist, the  
313 cost of preparing the lien, and the recording fee.

314 (b) The lien recorded pursuant to this subsection shall  
315 have the force, effect, and priority of a judgment lien. The law  
316 enforcement agency shall not release the lien until either of the  
317 following occurs:

318 1. The residential property owner satisfies the lien and  
319 submits proof, such as a certificate of fitness, that the  
320 residential property has been decontaminated pursuant to s.  
321 893.122(1) or s. 893.123 and the law enforcement agency lifts the  
322 quarantine; or

323 2. The lien is otherwise released under applicable law.

324 (6) The clandestine laboratory cleanup specialist shall  
325 repair, replace, or remediate damaged materials on a residential  
326 property such that, upon the conclusion of the cleanup, the  
327 residential property successfully tests less than or equal to the  
328 values specified in s. 893.123(1). The department shall adopt by  
329 rule pursuant to ss. 120.536(1) and 120.54 an appropriate form  
330 that a clandestine laboratory cleanup specialist shall complete  
331 and submit to the department as proof that the appropriate  
332 cleanup of a clandestine laboratory has occurred. The information  
333 in the form shall include, but is not limited to, the:

334 (a) Name of the residential property owner and legal  
335 description of the property.

336 (b) Date the cleanup was completed.

337 (c) Test results, findings, and conclusions.

338 (d) Method of repair, replacement, or remediation of the  
339 residential property.

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340       (e) Name, address, and contact information of the company  
341 or individual who performed the cleanup.

342       (f) Documentation that all hazardous substances, toxic  
343 chemicals, or other hazardous waste products that may have been  
344 present were removed from the residential property and disposed  
345 of properly.

346       (7) Upon receipt of the completed form and all supporting  
347 documentation submitted by the clandestine laboratory cleanup  
348 specialist, the department shall issue a certificate of fitness  
349 to the clandestine laboratory cleanup specialist. The clandestine  
350 laboratory cleanup specialist shall submit the certificate of  
351 fitness to the residential property owner and the law enforcement  
352 agency as documentation that the property may be reoccupied.

353       Section 6. Paragraph (s) of subsection (1) of section  
354 465.016, Florida Statutes, is amended to read:

355       465.016 Disciplinary actions.--

356       (1) The following acts constitute grounds for denial of a  
357 license or disciplinary action, as specified in s. 456.072(2):

358       (s) Dispensing any medicinal drug based upon a  
359 communication that purports to be a prescription as defined by s.  
360 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or has  
361 reason to believe that the purported prescription is not based  
362 upon a valid practitioner-patient relationship.

363       Section 7. Paragraph (e) of subsection (1) of section  
364 465.023, Florida Statutes, is amended to read:

365       465.023 Pharmacy permittee; disciplinary action.--

366       (1) The department or the board may revoke or suspend the  
367 permit of any pharmacy permittee, and may fine, place on

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368 probation, or otherwise discipline any pharmacy permittee who  
369 has:

370 (e) Dispensed any medicinal drug based upon a communication  
371 that purports to be a prescription as defined by s. 465.003(14)  
372 or s. 893.02~~(20)~~ when the pharmacist knows or has reason to  
373 believe that the purported prescription is not based upon a valid  
374 practitioner-patient relationship that includes a documented  
375 patient evaluation, including history and a physical examination  
376 adequate to establish the diagnosis for which any drug is  
377 prescribed and any other requirement established by board rule  
378 under chapter 458, chapter 459, chapter 461, chapter 463, chapter  
379 464, or chapter 466.

380 Section 8. Paragraph (c) of subsection (1) of section  
381 856.015, Florida Statutes, is amended to read:

382 856.015 Open house parties.--

383 (1) Definitions.--As used in this section:

384 (c) "Drug" means a controlled substance, as that term is  
385 defined in ss. 893.02~~(4)~~ and 893.03.

386 Section 9. Subsection (6) of section 893.135, Florida  
387 Statutes, is amended to read:

388 893.135 Trafficking; mandatory sentences; suspension or  
389 reduction of sentences; conspiracy to engage in trafficking.--

390 (6) A mixture, as defined in s. 893.02~~(14)~~, containing any  
391 controlled substance described in this section includes, but is  
392 not limited to, a solution or a dosage unit, including but not  
393 limited to, a pill or tablet, containing a controlled substance.  
394 For the purpose of clarifying legislative intent regarding the  
395 weighing of a mixture containing a controlled substance described  
396 in this section, the weight of the controlled substance is the

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total weight of the mixture, including the controlled substance and any other substance in the mixture. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

Section 10. Paragraph (a) of subsection (1) of section 944.47, Florida Statutes, is amended to read:

944.47 Introduction, removal, or possession of certain articles unlawful; penalty.--

(1)(a) Except through regular channels as authorized by the officer in charge of the correctional institution, it is unlawful to introduce into or upon the grounds of any state correctional institution, or to take or attempt to take or send or attempt to send therefrom, any of the following articles which are hereby declared to be contraband for the purposes of this section, to wit:

1. Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

2. Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

3. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect.

4. Any controlled substance as defined in s. 893.02~~(4)~~ or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.

5. Any firearm or weapon of any kind or any explosive substance.

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426 Section 11. Subsection (1) of section 951.22, Florida  
427 Statutes, is amended to read:

428 951.22 County detention facilities; contraband articles.--

429 (1) It is unlawful, except through regular channels as duly  
430 authorized by the sheriff or officer in charge, to introduce into  
431 or possess upon the grounds of any county detention facility as  
432 defined in s. 951.23 or to give to or receive from any inmate of  
433 any such facility wherever said inmate is located at the time or  
434 to take or to attempt to take or send therefrom any of the  
435 following articles which are hereby declared to be contraband for  
436 the purposes of this act, to wit: Any written or recorded  
437 communication; any currency or coin; any article of food or  
438 clothing; any tobacco products as defined in s. 210.25(11); any  
439 cigarette as defined in s. 210.01(1); any cigar; any intoxicating  
440 beverage or beverage which causes or may cause an intoxicating  
441 effect; any narcotic, hypnotic, or excitative drug or drug of any  
442 kind or nature, including nasal inhalators, sleeping pills,  
443 barbiturates, and controlled substances as defined in s.  
444 893.02~~(4)~~; any firearm or any instrumentality customarily used or  
445 which is intended to be used as a dangerous weapon; and any  
446 instrumentality of any nature that may be or is intended to be  
447 used as an aid in effecting or attempting to effect an escape  
448 from a county facility.

449 Section 12. Paragraph (a) of subsection (1) of section  
450 985.4046, Florida Statutes, is amended to read:

451 985.4046 Introduction, removal, or possession of certain  
452 articles unlawful; penalty.--

453 (1)(a) Except as authorized through program policy or  
454 operating procedure or as authorized by the facility



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455 superintendent, program director, or manager, a person may not  
456 introduce into or upon the grounds of a juvenile detention  
457 facility or commitment program, or take or send, or attempt to  
458 take or send, from a juvenile detention facility or commitment  
459 program, any of the following articles, which are declared to be  
460 contraband under this section:

461       1. Any unauthorized article of food or clothing.

462       2. Any intoxicating beverage or any beverage that causes or  
463 may cause an intoxicating effect.

464       3. Any controlled substance, as defined in s. 893.02~~(4)~~, or  
465 any prescription or nonprescription drug that has a hypnotic,  
466 stimulating, or depressing effect.

467       4. Any firearm or weapon of any kind or any explosive  
468 substance.

469       Section 13. This act shall take effect July 1, 2006.